

IN THE ENVIRONMENT COURT

	<b>ENV No.</b>
<b>IN THE MATTER</b>	of an appeal pursuant to clause 14(1) of the First Schedule to the Resource Management Act 1991
<b>BETWEEN</b>	<b>BLAKELY PACIFIC LIMITED</b>
	Appellant
<b>AND</b>	<b>WESTERN BAY OF PLENTY DISTRICT COUNCIL</b>
	Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISIONS ON PROPOSED PLAN CHANGE 46 / VARIATION 2 TO THE WESTERN BAY OF PLENTY DISTRICT PLAN**

**To:** The Registrar  
Environment Court  
Auckland

1. Blakely Pacific Limited (**BPL**) appeals against decisions of the Western Bay of Plenty District Council (**Council**) on the Proposed Plan Change 46 / Variation 2 (**PC 46 / Variation 2**) to the Western Bay of Plenty District Plan.
2. BPL made a submission and a further submission on PC 46 / Variation 2.
3. BPL is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. BPL received notice of the decisions on 22 April 2014.
5. The decisions were made by the Council.
6. The decisions that BPL is appealing are the Council's decisions to decline to amend PC 46 / Variation 2 in accordance with BPL's submissions on the

Council's proposed changes to the following parts of the Western Bay of Plenty District Plan:

- Section 5 – Natural Environment
- Section 6 – Landscape
- Section 18 – Rural
- Various planning maps and appendices

7. The reasons for the appeal include the following:

7.1 The proposed provisions do not create a robust and comprehensive framework for transferable development rights. There is a general failure to give certainty that transferable development rights may be utilised by a "receiving" landowner. For example:

- (a) There are no objectives and policies to support the proposed rules;
- (b) Rule 18.3.6(a) prohibits residential development and subdivision that exceeds a density of one dwelling per 40 ha on the Matakana Island forested sand barrier but fails to make it clear that the rule does not preclude development of an individual site at a greater density if transferable development rights are utilised; and
- (c) Rule 18.4.1(d)(i) prescribes dwelling or lot entitlements but fails to make it clear that an applicant is entitled to one dwelling or lot for every 40ha of a site that is to be developed or subdivided *plus* any transferable development rights.

7.2 The proposed plan provisions inappropriately constrain development and fail to provide for appropriate development on the Matakana Island forested sand barrier.

7.3 To the extent that the Council's decision does not reflect the amendments sought in BPL's submissions:

- (a) It is not the most appropriate way to achieve the purpose of the Act i.e. to promote the sustainable management of natural and physical resources;
- (b) It will not enable people and communities, including landowners on the Matakana Island forested sand barrier, to provide for their social, economic and cultural wellbeing; and
- (c) It does not represent the most appropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of other available means, and is therefore not appropriate in terms of section 32 and the other relevant provisions of the Act.

7.1 Such other reasons and concerns as are set out in BPL's submission and further submission.

8. BPL seeks the following relief:

- (a) amend PC 46 / Variation 2 to address the concerns and relief set out above and in BPL's submission and further submission (to the extent not addressed by the Council's decision).
- (b) any similar or consequential relief.
- (c) costs of and incidental to this appeal.

9. BPL attaches the following documents to this notice:

- (a) a copy of BPL's submission and further submission (with a copy of the submission opposed or supported by BPL's further submission);
- (b) a copy of the relevant decision;

- (d) a list of names and addresses of persons to be served with a copy of this notice.

DATED at Auckland this 4<sup>th</sup> day of June 2014



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W S Loutit / T R Fischer  
Counsel for the appellant



**Address for service of appellant:**

Simpson Grierson  
Solicitors  
88 Shortland Street  
Private Bag 92518  
Auckland  
Attention: Tim Fischer

Telephone: 0-9-358 2222  
Facsimile: 0-9-307 0331  
Email: tim.fischer@simpsongrierson.com

**Advice to recipients of copy of notice of appeal**

*How to become party to proceedings*

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see Form 38).

*How to obtain copies of documents related to this appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission and (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington, or Christchurch.

**BPL SUBMISSIONS ON PC 46 / VARIATION 2 (WITH A COPY OF THE  
SUBMISSIONS OPPOSED OR SUPPORTED BY BPL'S FURTHER SUBMISSION)**



THE COUNCIL'S DECISIONS

[REDACTED]

NAMES AND ADDRESSES OF PERSONS TO BE SERVED WITH APPEAL

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